

ESTTA Tracking number: **ESTTA118119**

Filing date: **01/05/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	SolidWorks Corporation
Granted to Date of previous extension	01/13/2007
Address	300 Baker Avenue Concord, MA 01742 UNITED STATES
Attorney information	Charles E. Weinstein, Esq. Foley Hoag LLP 155 Seaport Boulevard Boston, MA 02210-2600 UNITED STATES cew@foleyhoag.com, mboudett@foleyhoag.com, mpogach@foleyhoag.com, gmaclellan@foleyhoag.com Phone:617-832-1238

Applicant Information

Application No	78852849	Publication date	11/14/2006
Opposition Filing Date	01/05/2007	Opposition Period Ends	01/13/2007
Applicant	Autodesk 111 McInnis Parkway San Rafael, CA 94903 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: computer software for data management and creation and manipulation of engineering and design data, particularly adapted for engineering, architecture, manufacturing, building, and construction applications, together with instruction manuals sold as a unit; computer-aided design software; computer software for animation, graphics and design modeling applications

Related Proceedings	Opposition No. 91170857 (DWGGATEWAY); Cancellation No. 92046253 (DWGEDITOR)
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Attachments	DWGX opposition.pdf (4 pages)(149743 bytes)
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Signature	/miriamlpogach/
Name	Miriam L. Pogach, Esq.
Date	01/05/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SOLIDWORKS CORPORATION,

Opposer,

v.

AUTODESK, INC.,

Applicant.

Opposition No.

Application S.N.
78/852849

NOTICE OF OPPOSITION

SolidWorks Corporation (hereinafter "Opposer"), a Delaware Corporation with offices at 300 Baker Avenue, Concord, Massachusetts 01742, believes it will be damaged by registration of the mark DWGX, which is the subject of Application Serial No. 78/852849, owned by Autodesk Inc. (hereinafter "Applicant"), a Delaware Corporation with offices at 111 McInnis Parkway, San Rafael, California 94903. The application was published in the *Official Gazette* of November 14, 2006. Opposer filed, and was granted, an extension of time to oppose until January 13, 2007.

The grounds for this Opposition are as follows:

1. The Application opposed herein seeks to register the mark DWGX for "computer software for data management and creation and manipulation of engineering and design data, particularly adapted for engineering, architecture, manufacturing, building, and construction applications, together with instruction manuals sold as a unit; computer software for

animation, graphics and design modeling applications" in International Class 9. The Application was filed on April 3, 2006 based upon an alleged *bona fide* intent to use the mark in commerce.

2. Opposer has been using the mark DWGgateway in connection with computer software for use in computer-aided design and computer-aided manufacturing for design and modeling applications since January 2005. Opposer is the owner of Application Serial No. 78/651780 for registration of the mark DWGGATEWAY for "computer software for use in computer-aided design and computer-aided manufacturing for design and modeling applications" in International Class 9, which was filed on June 16, 2005 and published in the *Official Gazette* of March 14, 2006.

3. Opposer has been using the mark DWGeditor in connection with computer software for use in computer-aided design and computer-aided manufacturing for design and modeling applications since August 26, 2004. Opposer is owner of Registration No. 3,134,536 of the mark DWGEDITOR on the Supplemental Register for "computer software for use in computer-aided design and computer-aided manufacturing for design and modeling applications" in International Class 9, which issued on August 22, 2006 based on Application Serial No. 78/651779, which was filed on June 16, 2005.

4. Applicant has filed pending Opposition No. 91170857 against Opposer's published Application for registration of DWGGATEWAY, and has filed pending Cancellation No. 92046253 against Opposer's issued Registration of DWGEDITOR. In these proceedings, Applicant alleges some form of prior rights in the term DWG and claims that Opposer's marks are confusingly similar to that term.

5. Opposer's use of the marks DWGgateway and DWGeditor began well before Applicant's use (if any) of the mark DWGX. Moreover, Opposer's applications to register DWGGATEWAY and DWGEDITOR predate Applicant's intent-to-use application to register DWGX. To the extent that either party has rights in marks consisting of or containing the term DWG, Opposer's rights are prior to those of Applicant.

6. The goods set forth in the Application opposed herein for registration of the mark DWGX, Serial No. 78/852849, are identical, similar or closely related to the goods which Opposer identifies under the marks DWGgateway and DWGeditor, and which are set forth in Opposer's prior pending Application for registration of DWGGATEWAY, Serial No. 78/651780, and its prior issued Registration of DWGEDITOR, Reg. No. 3,134,536.

7. To the extent that DWG is capable of functioning as a trademark, Applicant's use of the mark DWGX for the goods identified in the Application opposed herein is likely to cause


confusion, mistake and deception with Opposer's marks DWGGATEWAY and DWGEDITOR, all to Opposer's damage.

8. If Applicant is granted the registration herein opposed, it would thereby obtain a *prima facie* exclusive right to use of its mark, which would be a further source of damage to Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of said mark and prays that this Opposition be sustained, that Application Serial No. 78/852849 be rejected, and that the mark applied for therein be refused registration. The filing fee required in connection with this opposition should be charged to deposit account number 06-1446.

Respectfully submitted,

SOLIDWORKS CORPORATION


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Dated: January 5, 2007